

Direction: CITY.0825.DSS

Chairperson Costa called the regular meeting of the Plan and Zoning Commission to order at 5:30 p.m. on Wednesday, January 16, 2013, in the Council Chambers of the West Des Moines City Hall, located at 4200 Mills Civic Parkway, in West Des Moines.

Roll Call: Andersen, Brown, Costa, Cownie, Crowley, Hatfield.....Present  
Erickson.....Absent

**Item 1 - Consent Agenda**

**Item 1a - Minutes of the meeting of December 19, 2012**

Chairperson Costa asked for any comments or modifications to the December 19, 2012 minutes.

Moved by Commissioner Crowley, seconded by Commissioner Hatfield, the Plan and Zoning Commission approve the minutes of the meeting of December 19, 2012.

Vote: Andersen, Brown, Costa, Cownie, Crowley, Hatfield.....Yes  
Erickson.....Absent

Motion carried.

**Item 2– Public Hearings**

**Item 2a – Rezoning Request – Southwoods Knoll PUD Amendment – Stanbrough Realty Company, Inc. – NE corner of Mills Civic Parkway and South 50th Street – Amend the Southwoods Knoll Planned Unit Development (PUD) to allow small goods repair shops, pet bakeries, and other miscellaneous small goods retail stores with no outdoor storage or displays as permitted uses within the Fox Prairie Plaza retail center – ZC-2012-011**

Chairperson Costa opened the public hearing and asked the Recording Secretary to state when the public notice was published. The Recording Secretary indicated that the notice was published on January 4, 2013, in the Des Moines Register.

Chairperson Costa then asked for a motion to accept and make a part of the record all testimony and all other documents received at this public hearing.

Moved by Commissioner Andersen, seconded by Commissioner Brown, the Plan and Zoning Commission accept and make a part of the record all testimony and all other documents received at this public hearing.

Vote: Andersen, Brown, Costa, Cownie, Crowley, Hatfield.....Yes  
Erickson.....Absent

Motion carried.

Jeff Stanbrough, Stanbrough Realty Company, 10888 Hickman, Road, Clive, requested a combination pet and pet supply store, as well as a pet bakery business, be allowed as a permitted use within the Fox Prairie Plaza retail center. A potential tenant has recently been identified which has shown interest in this type of business. Under the current zoning, only pet grooming would be allowed. Mr. Stanbrough indicated that in addition to requesting the pet supply/bakery use be allowed, other small goods retail uses be included in this request.

Mr. Stanbrough expressed agreement with all staff recommendations.

Chairperson Costa asked if anyone from the audience would like to speak to this item; seeing none, closed the public hearing and asked for continued discussion or a motion.

Moved by Commissioner Hatfield, seconded by Commissioner Andersen, the Plan and Zoning Commission adopt a resolution recommending the City Council approve the amendment to the Southwoods Knoll Planned Unit Development to allow the following uses as permitted in Parcel F: 5731 Radio, TV, Consumer Electronics Stores; 5736 Musical Instrument Store; 593 Used Merchandise Store; 5948 Luggage and Leather Goods store; 5999 All Shop, subject to the applicant meeting all City Code requirements.

Vote: Andersen, Brown, Costa, Cownie, Crowley, Hatfield.....Yes  
 Erickson.....Absent  
 Motion carried.

**Item 2a – Zone Change Specific Plan – Jordan Creek Business Park Planned Unit Development (PUD) – Jordan Creek Partners – NW and SW corners of Village View Drive and S 60th Street – 31.85 acres – Amend Jordan Creek Business Park PUD allowed uses – ZCSP - 2012-004**

Commissioner Crowley recused himself from participation in this item due to a potential conflict of interest.

A memo was given to the Commissioners at the dais from property owners Scot and Melanie Stoltenberg opposing the proposed Jordan Creek Business Park PUD amendment. Development Planning and Inspection Manager Shires also provided that a letter from Chip Baltimore, General Counsel, United Bank & Trust, representing the majority owner of the property within the Jordan Creek Business Park, indicated opposition which had been provided to the Commissioners in their staff report.

Chairperson Costa opened the public hearing and asked the Recording Secretary to state when the public notice was published. The Recording Secretary indicated that the notice was published on January 11, 2013, in the Des Moines Register.

Chairperson Costa then asked for a motion to accept and make a part of the record all testimony and all other documents received at this public hearing.

Moved by Commissioner Andersen, seconded by Commissioner Cownie, the Plan and Zoning Commission accept and make a part of the record all testimony and all other documents received at this public hearing.

Vote: Andersen, Brown, Costa, Cownie, Hatfield.....Yes  
 Crowley.....Abstain  
 Erickson.....Absent  
 Motion Carried.

Planner Twedt provided maps of the development location pointing out the eight (8) lots with one detention outlot. There is currently one existing building on the property which was originally a Walters development which was intended for an office designation, but the true intent was not for straight office. Ms. Twedt discussed the land uses for the area, and that this request was to allow additional uses similar and consistent to those allowed as part of the Jordan Creek Crossing 1 development which had the same zoning designation at one time.

Ms. Twedt continued by addressing Kings Valley residents' concern that there would be a strip mall. She explained that the allowable building type would not change in any way. The devaluation of property could not be answered as this would depend on the market. Ms. Twedt expanded that this applicant was interested in more of a niche market and that there has been interest from both a salon owner and a photographer. She suggested that an option could be to have the amendment only apply to the three southern lots to the south of Village View Drive which would create more separation and transition from the residences and limit the number of retail that could locate in the area.

Commissioner Hatfield inquired what the rear-yard requirement was for the properties designated as Parcel B. Ms. Twedt responded that there was a detention area to the north which provided a natural separation with a setback. From the single family property line, there is approximately 70 ft. of separation just to the edge of their lots.

Commissioner Costa inquired if this was an odd request in that only one of the property owners was making it. Planner Twedt responded that she felt that this was a reasonable request from the property owner as there were many vacancies and the owner was having difficulty filling the office space.

Dave Hubler, 6196 Kings Way, stated that when he built his home, he knew there would be development behind his property. He expressed concern about water issues going through the property. So far there has not been flooding, but no matter what happens, he would urge that those established waterways remain. He was satisfied with the protected waterway which should be scrupulously maintained. He expressed opposition to the amendment and supports the present use. He also inquired as to development height limits. Ms. Twedt responded that a hotel could be built with a 36 ft height limit and that straight PCP standards would have to be followed.

Colin Cunningham, 328 S. 61<sup>st</sup> Street, expressed opposition to the amendment. His main concern was increased noise that may occur with the uses that were being proposed.

Chip Baltimore, General Counsel, United Bank and Trust, Ames, representing the major property owner, was clearly opposed to the proposed amendment and that the reasons were stated in his correspondence that was sent to Planner Twedt. He expressed chagrin for a single lot owner changing uses without the consent of the major owner of seven lots who also had the largest financial interest. Mr. Baltimore continued that as a result of the current market, United Bank and Trust would be damaged significantly. He indicated that it was very troubling that this would be a permanent change imposed on all the property owners. He also took issue that the first hearing notice was received just a short time ago which did not allow for time to research the issue as this was the first time he was aware of the proposed transition. He continued with the concern that the area would eventually turn into a strip mall as the uses are not necessarily those allowed in an upper-end development and may devalue the area as no restrictions have been identified. Mr. Baltimore then commented that the more retail allowed, the less attractive a development can become. He summarized that this development was truly intended for office as originally established and that an office designation would be best for the area. He urged the Commission to take into consideration the concerns of the majority owner of the property.

Chairperson Costa inquired if it was Mr. Baltimore's contention that his client would be financially harmed. Mr. Baltimore's response was that he believed that there would be financial harm if the expansive uses were allowed.

Jay Gillard, 6166 Kings Way, also opposed this rezoning along with the others living on Kings Way which was summed up accurately in the Stoltenberg letter. He contended that more retail would bring more noise and increased traffic. He also commented on the waterway and flooding concerns in the area in the event there was rerouting of the water.

Jan Berg, CBRE Hubbell Commercial, 6900 Westown Parkway, stated she was the listing agent for Jordan Creek Business Condos and represented the owner of Lot 3 within Parcel B. Ms. Berg expressed that she understood all the issues and concerns of the property owners and the affect to their private living, but that this request came from the change in market demand. The property owner has never been in favor of a strip mall nor was this ever the intention, and the only goal was to respond to market demand. The only kind of user that would be considered for this professional location would be a high-end boutique or specialty retail. This request to the City was generated due to interest in this location, and that a typical strip-mall user would never have any interest in this area as it would not be the right location nor have the needed visibility, access, or traffic. The property owner's goal was to fill a healthy and productive building while helping the entire environment, the neighborhood, and West Des Moines.

Commissioner Hatfield inquired as to the percentage of the building that was currently occupied. Ms. Berg stated that one-third was filled with proposals out to another 12 potential tenants which would make the building at 80% capacity.

Commissioner Brown inquired what the hours of operation would be with the additional uses. Ms. Berg responded that generally the uses would have traditional office hours or prearranged appointments. It was possible that a high-end salon would have hours longer than 8 am to 5 pm.

Commissioner Cownie inquired if there was a reason that there was no communication between property owners. Ms. Berg stated that there was no knowledge of who the owner was and that it was not intentional that there has been no communication.

Commissioner Cownie asked if Mr. Baltimore had knowledge of the specific plans for the other seven parcels. Mr. Baltimore stated that the bank has been in the process of marketing the parcels and has invested a significant amount of time into listing these parcels with the existing uses. If there was a change or addition to the uses, there would have to be readjustments.

Commissioner Cownie asked how this change would impact the parcels. Mr. Baltimore indicated that additional property uses would result in lower property values, and that it would be difficult to justify its current market value if the property was perceived as more rental. He stated there could be a downward spiral trend. Also, there would be nothing in place that would be restrictive to allow only high-end clients. The full spectrum would have to be evaluated regarding tenants and what would be allowable and commensurate with the surrounding area.

Tamara Davis Hubler, 6196 Kings Way, stated that this property has been in the family for many years as it had belonged to her grandfather. She pointed out on a map indicating the area was never farmed because it was wetlands, and that her backyard was so wet that it was "unmowable." Ms. Hubler continued that this change would affect more property backyards and that basements would be flooded. She summarized by asking the Commissioners to please consider this problem when making a decision.

Kevin Crowley, 5937 Cottonwood Circle, representing United Bank and Trust, commented that in the last five years the economy has gone through many turns and that the market was better, but still not stable. We have seen property owners looking to change zoning for the betterment opportunity to stabilize their properties. In this case, the office/condo project has been struggling. He continued by expressing concern that the intent was never for retail use. Also, if this change was approved, eventually less desirable users would be allowed in the area.

Chairperson Costa stated that he thought this was a unique situation with one lot owner making this request. He would have been more comfortable if there had been conversations between the owners, and

that they could have worked in concert for a consensus. He expressed trouble forcing an amendment when the major owner was against. Commissioner Hatfield concurred that he could not support a change that would negatively impact a major property owner.

Chairperson Costa asked if anyone from the audience would like to speak to this item; seeing none, closed the public hearing and asked for continued discussion or a motion.

Moved by Commissioner Hatfield, seconded by Chairperson Costa, the Plan and Zoning Commission adopt a resolution recommending the City Council DENY the Rezoning Request to amend the Jordan Creek Business Park Specific Plan to allow specific retail, service and repair uses within Parcel B of the development.

Vote: Andersen, Brown, Costa, Cownie, Hatfield.....Yes  
Crowley .....Abstain  
Erickson.....Absent  
Motion carried to deny.

Mr. Shires provided that this item will now go forward to the January 21, 2013, City Council meeting on Monday with a Plan and Zoning recommendation for denial.

### **Item 3 – Old Business**

There were no Old Business items.

### **Item 4 – New Business**

#### **Item 4a – Preliminary Plat – Lincoln Street Park Plat 3 – Lakeside Part Plaza, LC – 300 Block of Lincoln Street – Subdivide property into three (3) lots for future development - PP-2012-016**

Chairperson Costa recused himself from this item due to a potential conflict of interest.

Jerry Oliver, Civil Engineering Consultants, 2400 86th Street, Des Moines, representing the applicant, requested approval to subdivide Lot 2 Lincoln Street Park Plat 2 into three (3) lots for development. One lot will be developed for Meals from the Heartland and the other two lots for a senior housing project.

Mr. Oliver stated agreement with all of staff recommendations.

Planner Tragesser informed the Commissioners that the water main distribution issue, the subject of Condition #1, has been resolved with the West Des Moines Water Works.

Vice Chairperson Andersen asked if anyone from the audience would like to speak to this item; seeing none, asked for continued discussion or a motion.

Moved by Commissioner Hatfield, seconded by Commissioner Crowley, the Plan and Zoning Commission adopt a resolution recommending the City Council approve the Preliminary Plat request, subject to the applicant meeting all City Code requirements and the following:

1. Work with West Des Moines Water Works to resolve the water main distribution issue.
2. Provide final drawings after Condition #1 is addressed, prior to any final plat proceeding to City Council.

Vote: Andersen, Brown, Cownie, Crowley, Hatfield.....Yes  
Costa.....Abstain  
Erickson.....Absent

Motion Carried.

**Item 5 – Staff Reports**

Mr. Shires mentioned the upcoming April 9, 2013, Planning and Zoning workshop being offered through Iowa State University (ISU). This program information had been emailed to the Commissioners previously. If any of the Commissioners was interested in attending this evening program, the registration fee would be paid for by the City.

On April 13, 2013, an all-day session is being offered for commissioner training. This is an audio web conference that can be accessed from a home computer or set up at City Hall if more than one Commissioner was interested.

Information on the Employee Recognition Dinner to be held on Saturday, January 26, 2013, was also distributed.

**Item 6 – Adjournment**

Chairperson Costa asked for a motion to adjourn the meeting.

Moved by Commissioner Crowley, seconded by Commissioner Andersen to adjourn the meeting.

Vote: Andersen, Brown, Costa, Cownie, Crowley, Hatfield.....Yes  
Erickson.....Absent

Motion Carried.

Meeting adjourned at 6:43 p.m.

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Chris Costa, Chairperson  
Plan & Zoning Commission

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Kimberly Taylor, Recording Secretary